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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/159,503

Applicant(s)

BARRY ET AL.

Examiner

JOSHUA MURDOUGH

Art Unit

3621

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 97-115 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 97-115 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgements

1. This action is responsive to Applicants' amendment received 5 January 2009.
2. This action has been assigned paper number 20090303 for reference purposes only.
3. Claims 97-115 are pending and have been examined.

Specification

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 C.F.R. §1.75(d)(1) and MPEP § 608.01(o). The specification is replete with these errors. Some examples follow:

- a. "enterprise communications network" in at least claim 97;
- b. "object oriented protocol" in at least claim 97;
- c. "network entitlements" in at least claim 97;
- d. "proxy generation" in at least claim 97;
- e. "proxy request" in at least claim 97
- f. "switched voice traffic resources" in at least claim 97;
- g. "switched data traffic resources" in at least claim 97;
- h. "switched toll free voice traffic resources" in at least claim 98;
- i. "switched call center voice traffic resources" in at least claim 99;
- j. "switched toll traffic" in at least claim 100;
- k. "switched voice communications" in at least claim 101;

- l. “real time reporter” in at least claim 102;
- m. “in-box manager application” in at least claim 105;
- n. “priced call application” in at least claim 106;
- o. “broadband view application” in at least claim 107;
- p. “in-box application” in at least claim 108;
- q. “event monitor application” in at least claim 109;
- r. “single order entry application” in at least claim 111;
- s. “E-billing application” in at least claim 112;
- t. “client view application” in at least claim 113;
- u. “pre-selected calls” in at least claim 114;
- v. “invoice generation” in at least claim 114; and
- w. “view application” in at least claim 115.

Claim Objections

- 5. Claims 97-115 are objected to because of the following informalities:
- 6. Applicants have indicated in their remarks that a “‘proxy request’ may correspond to...receiving a response from a proxy” (Remarks, Page 14, Paragraph 2). Applicants have also indicated in their remarks that a “‘proxy request’ may correspond to...the generation of a message forwarded to a proxy” (Remarks, Page 24, Paragraph 3). These conflicting statements contribute to the phrase being unclear. However, Applicants’ remarks are not read into the claims during examination. Therefore, the Examiner has not rejected the claims on this basis under 35 U.S.C. 112 2nd paragraph.

7. Appropriate correction is required.

Claim Rejections - 35 USC § 112 1st Paragraph Written Description

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 97-115 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

10. The following is not disclosed in the original specification:

- x. “proxy generation” in at least claims 97, 110, and 115;
- y. “pre-selected calls” in at least claim 114; and
- z. “invoice generation” in at least claim 114.

Claim Rejections - 35 USC § 112 2nd Paragraph

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 97-115 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with errors. Some examples follow:

13. Claims 97 and 110 recite the limitation "after the customer's entitlements have been verified." One of ordinary skill in the art would not be able to determine the structure for this limitation.

14. Claims 97 and 110 further recite "providing session management for the customer, the session management including customer identification, validation, entitlements, and encryption." One of ordinary skill in the art would not be able to determine the structure for this limitation.

15. Claims 97 and 110 as amended recite "the system comprising: an object oriented protocol that encrypts interactive communications between the system and the customer over the public Internet, the protocol invoked within a web browser executed by a workstation associated with the customer, where the object oriented protocol supports encryption, customer identification, authentication and network entitlements." First, the "system" comprises the "object oriented protocol." Therefore, the object oriented protocol is in the system. There are "communications between the system and the customer." Therefore, the customer is outside the system. However, "the protocol is invoked within a web browser executed by a workstation associated with the customer." Therefore, the protocol is in the web browser which resides on the customer workstation. Thus, the protocol is claimed both within the system and outside the system in the customer workstation. Also, since the protocol is part of the customer workstation, the workstation is both part of the system and not part of the system. This results in two different grounds for a rejection under 35 U.S.C. 112 2nd paragraph as follows:

- aa. This recited arrangement would not be understood to one of ordinary skill in the art. A system claim's patentability is derived from its structure. See MPEP § 2114. However, in these claims, the organization of the parts cannot be determined.

bb. The scope of these claims would not be understood by one of ordinary skill in the art. The recited scope of these claims as set out by the preambles is "the system." The claims distinctly show that the customer is separate from the system ("communications between the system and the customer"). However, limitations directed toward the customer are recited ("the protocol is invoked within a web browser executed by a workstation associated with the customer"). Thus, it is unclear if the claim is directed to "the system" or a system comprising "the system," "the customer," and "the public Internet."

16. The Examiner finds that because the claims are indefinite under 35 U.S.C. §112 2nd paragraph, it is impossible to properly construe claim scope at this time. However, in accordance with MPEP §2173.06 and the USPTO's policy of trying to advance prosecution by providing art rejections even though these claim are indefinite, the claims are construed and the art is applied *as much as practically possible*.

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 97-115, as best understood, are rejected under 35 U.S.C. §103(a) as being unpatentable over Archer (US 6,683,870) in view of McNair (US 4,608,455).

19. As to claims 97, 110, and 115; Archer shows:

cc. An integrated and secure system for conducting business over the public Internet by enabling a customer of an enterprise communications network to command and control the customer's switched communications connections within the network over the public Internet and to view results of any changes in the customer's connections over the public Internet, the system comprising:

dd. an object oriented protocol (Internet Protocol, "IP", within "IP Network" 130) conducting interactive communications between the system and the customer (subscriber) over the public Internet ("connected via telephone lines to an Internet service provider," Columns 7-8, lines 64-11), the protocol invoked within a web browser ("Netscape Navigator" on 134b, Columns 7-8, lines 64-11) executed by a workstation **134b** associated with the customer, where the object oriented protocol supports customer identification (through an identification code, Column 8, lines 50-56), authentication and network entitlements (Columns 8-9, lines 61-9);

ee. at least one web server **128a** that manages customer sessions over the public Internet, the at least one web server providing session management for the customer (Column 9, lines 31-37), the session management including customer identification (through an identification code, Column 8, lines 50-56), validation (Columns 8-9, lines 61-9), and entitlements (Columns 8-9, lines 61-9); and

ff. at least one dispatch server **128b** with the at least one secure web server and a plurality of system resources (items 140, 142, 146, 120, and 132) the dispatch server providing verification of system access and proxy generation for the system resources

(Columns 8-9, lines 61-9) after the customer's entitlements have been verified (compared with entries stored in database 138);

gg. the plurality of system resources including a network manager **140** which manages routing of the customer's traffic over the communications network (Column 4, lines 17-30), and a view application to review network traffic (Column 5, lines 47-58), the network manager and said view application responsive to proxy requests from said dispatch server, where the network manager and the view application command and control (Column 2, lines 35-50) switched voice traffic resources and switched data traffic resources (Column 9, lines 62-67) provided by the enterprise to the customer.

hh. the system operates in near real time (Column 11, lines 36-43)

20. Archer does not expressly show the use of encryption or that the web server is secure. However, McNair shows how to encrypt voice and data communications (Column 1, lines 6-10), in order to provide more secure communications. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Archer to encrypt the communications as done by McNair because it allows for the detection and correction of bit errors (Column 1, lines 36-57).

21. As to claims 98-100 and 111, the claimed differences would not require any structural differences and are therefore rejected under the same basis as claims 97 and 110.

22. As to claims 101 and 113, Archer further shows:

the view application includes a reporter responsive to proxy requests from the dispatch server to enable the customer to generate reports on switched voice communications in the network (Column 2, lines 48-50).

23. As to claim 102, Archer further shows:

the reporter for generating reports on the switched voice communications in the network includes a real time reporter for generating reports on network traffic in near real time (As the reporting is combined with the communication, when the communication is in real time, so is the reporting; Column 11, lines 36-43).

24. As to claim 103, Archer further shows:

the reporter for generating reports on the switched voice communications in the network includes a real time reporter for generating reports on outbound network traffic in near real time (As the reporting is combined with the communication, when the communication is in real time, so is the reporting; Column 11, lines 36-43).

25. As to claims 104 and 114, Archer further shows:

the reporter for generating reports on the switched voice communications in the network includes a reporter for generating history reports on the switched voice communications occurring during preselected periods of time (while not expressly showing reports being

generated for preselected periods of time, the necessary data is shown, therefore the system is enabling or capable of generating these reports. Column 7, lines 29-42).

26. As to claim 105, Archer further shows:

the reporter for generating reports on the switched voice communications in the network includes a report manager application for enabling a customer to generate reports for a plurality of switched voice communication applications and an in-box manager application for communicating the reports to the customer (the reports are generated locally at both ends and are transmitted to the opposite end; Column 11, lines 36-43).

27. As to claim 106, Archer further shows:

the reporter for generating reports on the switched voice communications in the network includes a priced call application for enabling a customer to generate priced reports and invoices for a plurality of switched voice communication applications (Column 7, lines 29-42).

28. As to claim 107, Archer further shows:

the customer's switched communications connections includes switched data traffic connections and the view application includes a broadband view application for generating reports on data relating to switched data traffic (Column 2, lines 48-50).

29. As to claim 108, Archer further shows:

the system includes an in-box application for storing and forwarding reports to the customer on data relating to the customer's switched voice and data traffic (the reports are generated locally at both ends and are transmitted to the opposite end; Column 11, lines 36-43).

30. As to claim 109, Archer further shows:

the system includes an event monitor application for storing and forwarding alarms generated with respect to the customer's traffic over the communications network (Column 9, lines 10-23).

31. As to claim 112, Archer further shows:

the system further comprises an E-Billing application which enables electronic business transactions to pay for the services, the order entry and E-Billing applications responsive to proxy requests from the dispatch server to enable the customer to manage and pay for the communications network services provided by the enterprise (Column 7, lines 29-42).

Definitions

32. The Examiner hereby adopts the following definitions under the broadest reasonable interpretation standard. In accordance with *In re Morris*, 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997), the Examiner points to these other sources to support his

interpretation of the claims.¹ Additionally, these definitions are only a guide to claim terminology since claim terms must be interpreted in context of the surrounding claim language. Finally, the following list is not intended to be exhaustive in any way:

Generation: “3 c: the process of coming or bringing into being” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

Receive: “1: to come into possession of” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

Request: “1: the act or an instance of asking for something” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

Response: “2: something constituting a reply or a reaction: as... b: the activity or inhibition of previous activity of an organism or any of its parts resulting from stimulation” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

33. The preceding definitions are intended to augment any previously provided definitions. Any previously established definitions are still considered valid unless otherwise noted.

Double Patenting

34. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible

¹ While most definitions are cited because these terms are found in the claims, the Examiner may have provided additional definition(s) to help interpret words, phrases, or concepts found in the definitions themselves or in the prior art.

harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

35. A timely filed terminal disclaimer in compliance with 37 C.F.R. §§ 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

36. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 C.F.R. §3.73(b).

37. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,381,644. The '644 patent contains, an object oriented protocol (IP on the "Internet", claim 1), at least one secure web server ("at least one authentication secure server," claim 1), at least one dispatch server ("a dispatch server," claim 1), a network manager ("outbound network manager," claim 1), and a

view application (on “network configuration device,” claim 1). Claim 1 of the ‘644 patent contains additional elements (*i.e.* application secure server) not needed to anticipate the instant claims. However, Applicants have used the term “comprising” in their current claims which allows for additional elements to be present.

38. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,377,993. The ‘993 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one secure server,” claim 1), at least one dispatch server (“dispatch server,” claim 1), a network manager (“firewall,” claim 1), and a view application (on “report manager server,” claim 1). Also, the ‘993 patent contains extra limitations not required in the instant application.

39. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,385,644. Although the conflicting claims are not identical, they are not patentably distinct from each other because the only substantive difference between the two sets of claims is in relation to the type of communication supported (voice or data), which would be an obvious modification as the content of the communication is non-functional material.

40. Claims 97-114 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6,470,386. The ‘386 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one secure server,” claim 1), at least one dispatch server (“a device for generating statistical data,” claim 1), a network manager (“customer,” claim 8), and a view

application (on “a retrieval device,” claim 1). In the ‘386 patent, the customer has to manually route the traffic. “[P]roviding an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art” (MPEP 2144.04 III).

41. Claims 97-114 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,490,620. The ‘620 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one secure server,” claim 1), at least one dispatch server (“a device for receiving network information,” claim 1), a network manager (“a device for periodically polling network switches,” claim 1), and a view application (on “integrated interface,” claim 1).

42. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-34 of U.S. Patent No. 6,574,661. The ‘661 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one secure server,” claim 1), at least one dispatch server (“a network configuration system,” claim 1), a network manager (“a network manager,” claim 1), and a view application (on “integrated interface,” claim 1).

43. Claims 97-114 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,598,167. The ‘167 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one secure web server,” claim 1), at least one dispatch server (“at least one dispatcher server,” claim 1), a network manager (“system resources providing communications network management,” claim 1), and a view application (on “integrated interface,” claim 1).

44. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-26 of U.S. Patent No. 6,606,708. The '708 patent contains, an object oriented protocol (IP on the "Internet", claim 1), at least one secure web server ("at least one secure server," claim 1), at least one dispatch server ("at least one dispatcher server," claim 1), a network manager ("system resources providing communications network management," claim 1), and a view application (on "system resources...generate client data," claim 1).

45. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-73 of U.S. Patent No. 6,611,498. The '498 patent contains, an object oriented protocol (IP on the "Internet", claim 68), at least one secure web server ("a secure server," claim 68), at least one dispatch server ("configuring device," claim 68), a network manager ("configuring device," claim 1), and a view application (on "configuring device," claim 68). The '498 patent provides the same functionalities as claimed in the instant application. However, several of the functions are performed by the same "configuring device." However, MPEP 2144.04 V C. states that, "if it were considered desirable for any reason to [make two parts separable], it would be obvious to make the [two parts separable] for that purpose."

46. Claims 97-114 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,745,229. The '229 patent contains, an object oriented protocol (IP on the "Internet", claim 1), at least one secure web server ("at least one secure server," claim 1), at least one dispatch server ("an invoice server

device,” claim 1), a network manager (“an invoice presentation device,” claim 1), and a view application (on “presentation applet,” claim 1).

47. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,763,376. The ‘376 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one web server,” claim 1), at least one dispatch server (“at least one dispatch server,” claim 1), a network manager (“system resources providing communications network management,” claim 1), and a view application (on “system resources...generate client data,” claim 1). Claim 1 of the ‘376 patent contains additional functions not needed to anticipate the instant claims. However, Applicants have used the term “comprising” in their current claims which allows for additional elements to be present.

48. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,968,571. The ‘5716 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one secure web server,” claim 1), at least one dispatch server (“at least one dispatcher server,” claim 1), a network manager (“system resources providing communications network management,” claim 1), and a view application (on “system resources...generate client data,” claim 1).

49. Claims 97-114 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 7,058,600. The ‘600 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one secure server,” claim 1), at least one dispatch server (“at least one dispatch

server," claim 1), a network manager ("system resources providing communications network management," claim 1), and a view application (on "system resources...generate client data," claim 1).

Response to Arguments

50. Applicant's arguments filed 5 January 2009 have been fully considered but they are not persuasive.

51. Applicants argue:

52. "The Examiner objects to the specification for allegedly failing to provide proper antecedent basis for the claimed subject matter. Applicants respectfully traverse this objection. The Examiner lists various terms recited in the claims and alleges that since these terms do not appear in the specification, the specification fails to provide "proper antecedent basis for the claimed subject matter" (Office Action, pp. 2-3). As the phrase "lacks antecedent basis" is typically applied in a rejection of a claim under 35 U.S.C. § 112, 2nd paragraph, Applicants will assume the Examiner meant to object to the specification as failing to comply with the written description requirement. At the outset, Applicants submit that the subject matter of the claim need not be described literally (i.e., using the same terms or in haec verba) in order for the disclosure to satisfy the description requirement (see M.P.E.P. § 2163.02)" (Remarks, Pages 11-12).

53. Examiner's response:

54. It was not the Examiner's intent to allege failure to comply with the written description requirement except where rejected under 35 U.S.C. 112 1st paragraph. See discussion below.

55. "The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description (See § 1.58(a).)" (MPEP § 608.01(i)(d)(1)). "While an applicant is not limited to the nomenclature used in the application as filed, he or she should make appropriate amendment of the specification whenever this nomenclature is departed from by amendment of the claims so as to have clear support or antecedent basis in the specification for the new terms appearing in the claims" (MPEP § 608.01(o)). "If the examiner determines that the claims presented late in prosecution do not comply with 37 CFR 1.75(d)(1), applicant will be required to make appropriate amendment to the description to provide clear support or antecedent basis for the terms appearing in the claims provided no new matter is introduced. The specification should be objected to if it does not provide proper antecedent basis for the claims by using form paragraph 7.44" (Id.).

56. In light of the previously cited MPEP sections, the Examiner believes his authority to object to the specification for lack of antecedent basis has been clearly established. As Applicants have not amended their description to provide clear support or antecedent basis, the Examiner maintains these objections.

57. Applicants argue:

58. "The terms "proxy generation" may correspond to, for example, generation of a message forwarded to a proxy. Support for these terms can be found, for example, at lines 4-19 of p. 34 of the specification, which disclose:

The dispatch server will unwrap an outer protocol layer of the message from the DMZ services cluster 24, and will reencrypt the message with symmetric encryption and forward the message to an appropriate application proxy via a third TCP/IP socket 27. While waiting for the proxy response all three of the sockets 22, 23, 27 will be blocking on a receive. Specifically, once the message is decrypted, the wrappers are examined to reveal the user and the target middle-tier (Intranet application) service for the request. A first-level validation is performed, making sure that the user is entitled to communicate with the desired service. The user's entitlements in this regard are fetched by the dispatch server 26 from StarOE server 39 at logon time and cached. (emphasis added)" (Remarks, Pages 13-14).

59. Examiner's response:

60. While the above quoted passage does disclose communication through a proxy, there is no mention of generating the proxy. Generation requires creating something not just using it. See definition of "generation" above.

61. Moreover, the forwarding of the message to an application proxy appears to be part of the verification of the system access and contains no mention of being "for the system resources" as claimed.

62. Applicants argue:

63. "The terms "proxy request" may correspond to, for example, receiving a response from a proxy. Support for these terms can be found, for example, at lines 4-19 of p. 34 of the specification, which disclose:

The dispatch server will unwrap an outer protocol layer of the message from the DMZ services cluster 24, and will reencrypt the message with symmetric encryption and forward the message to an appropriate application proxy via a third TCP/IP socket 27. While waiting for the proxy response all three of the sockets 22, 23, 27 will be blocking on a receive. Specifically, once the message is decrypted, the wrappers are examined to reveal the user and the target middle-tier (Intranet application) service for the request. A first-level validation is performed, making sure that the user is entitled to communicate with the desired service. The user's entitlements in this regard are fetched by the dispatch server 26 from StarOE server 39 at logon time and cached" (Remarks, Page 14, Paragraph 2).

64. Examiner's response:

65. The Examiner notes that this is the same portion of the specification relied upon for the "proxy generation."

66. A request asks for something from another party. See definition of "request" above.

Receiving a response, conversely, is the obtaining of a reply from another party. See definitions of "response" and "receive" above. Clearly, as requesting and responding are inverse operations of each other, the response does not disclose the request.

67. Applicants argue:

68. "The terms "pre-selected calls" may correspond to, for example, specific types of calls selected by a user. Support for these terms can be found, for example, at p. 81, line 26 to p. 82, line 7 of the specification, which disclose:

Additionally, at step 325, the user may select the report format associated with a reporting Category. For example, in the screen display of Figure 12 (a), associated with the analyze traffic report category, the report format options indicated in selection filed 1565 include the following: area code summary, country code summary, state summary, frequent numbers, payphone report and review calls options. For the financial report category, report formats include: longest calls, most expensive calls, payphone report, and area code summary;" (Remarks, Page 22, Paragraph 4).

69. Examiner's response:

70. The quoted passage shows filtering of data to report only certain calls. However, this does not show the pre-selection of these calls, but instead shows selection at the time of the report generation.

71. Also, this passage fails to disclose the "invoice generation and electronic payment" for the filtered results even if they were considered to be pre-selected.

72. Applicants argue:

73. "The Examiner alleges that the terms "invoice generation" recited in claim 114 are not supported by the specification (Office Action, p. 3, item v). Applicants disagree with the

Examiner's allegation. Support for these terms can be found, for example, at p. 336, lines 1-7 of the specification, which disclose:

Another application of the suite of telecommunications network management applications is an online invoicing system, herein referred to as "ClientView," which provides customers with the ability to view invoices and reports online, and offers a facility for printing and faxing documents. (emphasis added)" (Remarks, Page 23, Paragraphs 1-2).

74. Examiner's response:

75. Again the Examiner points to the definition of "generation" above. "Invoice generation" requires the creation of the invoice. The selection provided by Applicants only shows the viewing of an invoice. The mere presence of an invoice is not sufficient to show the generation.

76. Applicants argue:

77. "Additionally, a fundamental principle contained in 35 U.S.C. § 112, second paragraph, is that an applicant is his/her own lexicographer and may 'define in the claims what they regard as their invention essentially in whatever terms they choose so long as any special meaning assigned to a term is clearly set forth in the specification.' M.P.E.P. § 2173.01" (Remarks, Page 26, Paragraph 3).

78. Examiner's response:

79. The Examiner agrees that Applicants can be their own lexicographer. However, Applicants have not pointed to any claimed term or terms with which to draw in a lexicographic definition.

80. “[An] inventor may define specific terms used to describe invention, but must do so ‘with reasonable clarity, deliberateness, and precision’ and, if done, must ‘set out his uncommon definition in some manner within the patent disclosure’ so as to give one of ordinary skill in the art notice of the change’ in meaning” (MPEP 2111.01 IV). The Examiner has not found any definitions set out by Applicants in their disclosure with reasonable clarity, deliberateness, and precision to constitute a lexicographic definition. Therefore, the Examiner concludes that Applicants have not been their own lexicographer. Thus, this argument is not persuasive.

81. Applicants argue:

82. “With respect to claims 97 and 100, the Examiner alleges that one of ordinary skill in the art would not be able to determine the corresponding structure of the feature “after said customer’s entitlements have been verified” and further alleges that this feature appears to be part on an intended use of the dispatch server (Office Action, p. 5). Applicants respectfully disagree with the Examiner’s allegations” (Remarks, Page 27, Paragraph 3). “There is no requirement under 35 U.S.C. § 112, 2nd paragraph, that Applicants narrow the claims to recite a specific structure used to determine that a customer’s entitlements have been verified” (Remarks, Page 27, Paragraph 4). “Applicants submit that, given at least this section of the specification, one of ordinary skill in the art would be able to determine a structure for the above-noted feature of claims 97 and 110” (Remarks, Page 27, Paragraph 4).

83. Examiner's response:

84. The Examiner notes the typographical mistake in the first line of the above quoted sections. The arguments are in respect to claims 97 and 110.

85. The Examiner has not required Applicants to **narrow** their claims. However, they are required to show the structure that makes up their system claims. "In reviewing a claim for compliance with 35 U.S.C. 112, second paragraph, the examiner must consider the claim as a whole to determine whether the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112, second paragraph, by providing clear warning to others as to what constitutes infringement of the patent" MPEP 2173.02. "While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function" (MPEP 2114). Therefore, Applicants have a duty to clearly disclose to the public the structure of the apparatus they desire patent protection for.

86. Applicants submit that "one of ordinary skill in the art would be able to determine a structure for the above-noted feature" based on the specification. However, there are only two ways the specification can be properly read into the claims during examination: lexicography and 35 U.S.C. 112 6th paragraph. As discussed above, Applicants have not established any lexicographic definitions. Moreover, there is no recitation of "means for" or "step for" in the claims. Thus, 35 U.S.C. 112 6th paragraph has not been invoked. Therefore, the specification has no bearing on this rejection. It also appears Applicants are saying that the structure would be obvious to one of ordinary skill in the art.

87. Applicants' assertion that it is up to one of ordinary skill in the art to determine what constitutes "a structure" is in error. As noted above, it is Applicants' responsibility to set forth that which they want patent protection for.

88. Applicants argue:

89. "With respect to claims 97 and 110, the Examiner alleges that one of ordinary skill in the art would not be able to determine the corresponding structure of the feature "providing session management for the customer, said session management including customer identification, validation, entitlements and encryption" and further alleges that this feature appears to be part on an intended use of the dispatch server (Office Action, p. 5). Applicants respectfully disagree with the Examiner's allegations" (Remarks, Page 28, Paragraph 2).

90. Examiner's response:

91. This is essentially the same argument made for the previous limitation. Again, the Examiner emphasizes that it is Applicants' duty to disclose the structure not one of ordinary skill in the art's responsibility to determine "a structure."

92. Applicants argue:

93. Archer in view of McNair does not show all of the claimed elements (Remarks, Pages 32-45).

94. Examiner's response:

95. As noted in Paragraph 41 of the previous action, the Examiner believes that if the other issues regarding the claims are cleared up, allowance of at least some claims would be likely. Most notably, the issues under 35 U.S.C. 112 2nd paragraph require the Examiner to make interpretations that are likely contrary to what Applicants intend. Also, limitations that are considered new matter (written description under 35 U.S.C. 112 1st paragraph) are not persuasive in establishing a case for allowability.

96. Applicants' current amendments to make limitations positive recitations are considered to move the claims closer to allowance. If the remaining non-art rejections and objections can be overcome, the arguments to the art rejections will be more persuasive.

Conclusion

97. Applicant's amendment filed January 5, 2009 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. §1.136(a).

98. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R. §1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

99. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-3270. The Examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

100. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

101. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough
Examiner, Art Unit 3621

/ANDREW J. FISCHER/
Supervisory Patent Examiner, Art Unit 3621